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# Message Text

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ACTION EUR-12

INFO OCT-01 EA-09 ISO-00 AID-05 CIAE-00 COME-00 EB-07

FRB-01 INR-07 NSAE-00 USIA-15 TRSE-00 XMB-04 OPIC-06

SP-02 CIEP-02 LAB-04 SIL-01 OMB-01 NSC-05 SS-15

STR-04 CEA-01 L-03 H-02 DODE-00 PA-02 PRS-01 AGR-10

SEC-01 /121 W
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R 141731Z JUL 76
FM AMEMBASSY BONN
TO SECSTATE WASHDC 0417
INFO AMEMBASSY BERN
AMEMBASSY BRUSSELS
AMEMBASSY LONDON
AMEMBASSY PARIS
AMEMBASSY ROME
AMEMBASSY TOKYO
USMISSION EC BRUSSELS
USMISSION OECD PARIS
AMCONSUL FRANKFURT

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DEPARTMENT PASS TREASURY AND FEDERAL RESERVE

E.O. 11652: N/A
TAGS: EFIN, GW
SUBJECT: GERMAN BANKS ON U.S. BANK LEGISLATION'

REF.: BONN 11824

1. ON JULY 9 THE BUNDESVERBAND DEUTSCHER BANKEN, AN ASSOCIATION OF GERMAN COMMERCIAL AND PRIVATE BANKS, ISSUED A STATEMENT ON THE U.S. INTERNATIONAL BANKING BILL OF 1976 (SEE BONN 11824). THE RELEASE IS HEADLINED: U.S. BANKING LEGISLATION: ACTIVITIES OF GERMAN
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BANKS IN THE U.S. ARE MADE MORE DIFFICULT. LEADING GER-

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MAN NEWSPAPERS HAVE PROVIDED CONSIDERABLE COVERAGE. THE FOLLOWING IS A SLIGHTLY CONDENSED TRANSLATION OF THE PRESS RELEASE. (BEGIN TRANSLATION.)

2. U.S. LEGISLATION RESTRICTS INTERNATIONAL CAPITAL TRANSACTIONS: THE INTERNATIONAL BANKING BILL OF 1976 AIMS AT RESTRICTING ACTIVITIES OF FOREIGN BANKS IN THE U.S. IN IMPORTANT PARTS, THE BILL CONTAINS STRONGLY PROTECTIONIST ELEMENTS AND IS DETRIMENTAL TO FURTHER DEVELOPMENT OF MUTUAL ECONOMIC RELATIONS WITH THE U.S. THE PROPOSED RESTRICTIONS OF BUSINESS ACTIVITIES OF FOREIGN BANKS VIOLATE THE PRINCIPLE OF RECIPROCITY AND WOULD PROBABLY MAKE EFFORTS TO RETALIATE IN EUROPE UNAVOIDABLE. SUCH DEVELOPMENTS WOULD NOT ONLY AFFECT FOREIGN BANKS ACTIVE IN THE U.S., BUT IN ADDITION WOULD HAVE A DISINTEGRATING EFFECT ON THE FUNCTIONING OF INTERNATIONAL MONEY AND CAPITAL MARKETS, A RESULT NOT IN THE INTEREST OF THE UNITED STATES.

3. "BANKING CENTER AMERICA" BECOMES INCREASINGLY IMPORTANT: IN ADDITION TO FREEDOM OF TRADE, DIRECT INVESTMENT HAS BECOME AN IMPORTANT FACTOR IN MUTUAL ECONOMIC RELATIONS. THE PIONEERS IN THIS DEVELOPMENT WERE LARGE U.S. CONCERNS WHICH ALREADY MANY YEARS AGO WERE ABLE TO GAIN A SUBSTANTIAL MARKET SHARE IN THE FRG. GERMAN BUSINESS, DUE TO A LACK OF CAPITAL, HAS ONLY MUCH LATER BEEN IN A POSITION TO ESTABLISH PRODUCTION FACILITIES IN THE UNITED STATES. ALONG WITH THE EXPANDED ACTIVITIES OF LARGE U.S. CONCERNS, U.S. BANKS HAVE EXTENDED THEIR ACTIVITIES INTO EUROPE. SIMILARLY, WITH INCREASING ACTIVITY OF GERMAN FIRMS IN THE U.S., THE "BANKING CENTER AMERICA" HAS BECOME MORE IMPORTANT FOR GERMAN BANKS.

4. IMPORTANT MOTIVES FOR THE PRESENCE OF GERMAN BANKS IN THE U.S. ARE: (A) COMPREHENSIVE SUPPORT OF LARGE MULTINATIONAL CUSTOMERS CONDUCTING BUSINESS IN THE U.S.; (B) EXECUTION OF DOLLAR TRANSACTIONS FOR GERMAN PARENT BANKS; (C) PARTICIPATION IN U.S. SECURITY MARKETS TO INCLUDE THE ISSUING AND PLACEMENT OF SECURITIES; UNCLASSIFIED



AND (D) PARTICIPATION IN U.S. MONEY AND FOREIGN EXCHANGE MARKETS. BECAUSE BANKS IN THE U.S. CANNOT, AT THE SAME TIME, ENGAGE IN COMMERCIAL AND INVESTMENT BANKING, FOREIGN BANKS ACTIVE IN BOTH SECTORS (IN THE HOME COUNTRY) HAVE EITHER ESTABLISHED SUBSIDIARIES TO HANDLE SECURITY TRANSACTIONS OR HAVE ALTERNATELY ACQUIRED PARTICIPATIONS IN EXISTING INVESTMENT BANKS FOR THEIR U.S. OPERATIONS.

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5. PROTECTIONIST TENDENCIES STRENGTHEN: IN THE PAST, ACTIVITIES OF FOREIGN BANKS IN THE U.S. HAVE NOT RESULTED IN COMPLAINTS. GERMAN BANKS AS WELL AS BANKS FROM OTHER COUNTRIES, HAVE BEEN ENCOURAGED, EVEN URGED BY INDIVIDUAL STATE GOVERNMENTS TO INCREASE THEIR PRESENCE IN THE U.S. GERMAN BANKS HAVE REACTED POSITIVELY TO THIS AND HAVE MADE SUBSTANTIAL INVESTMENTS IN THE U.S. THUS, THE ONE-WAY STREET OF EXPANSION OF AMERICAN BANKS IN EUROPE HAS GRADUALLY BECOME A TWO-WAY STREET. AS THE ACTIVITY OF FOREIGN BANKS IN THE U.S. HAS EXPANDED, EFFORTS WITHIN THE U.S. HAVE BEEN MADE TO RE-

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SEC-01 /121 W
---------- 010753
R 141731Z JUL 76
FM AMEMBASSY BONN
TO SECSTATE WASHDC 0418
INFO AMEMBASSY BERN
AMEMBASSY BRUSSELS
AMEMBASSY LONDON
AMEMBASSY PARIS
AMEMBASSY ROME
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USMISSION EC BRUSSELS
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MADE TO RESTRICT THEIR ACTIVITIES WITHOUT MUCH SUCCESS.
THIS SITUATION CHANGED ONCE THE FEDERAL RESERVE BOARD
SUBMITTED ITS OWN DRAFT BILL -- THE FOREIGN BANKING BILL.
THE BASIC OBJECTIVE OF THIS BILL WAS TO STRENGTHEN THE
EFFECTIVENESS OF MONETARY POLICY INSTRUMENTS WITH REGARD
TO FOREIGN BANKS. THIS BILL, HOWEVER, ALREADY CONTAINED
ELEMENTS WHICH WOULD HAVE RESTRICTED BUSINESS ACTIVITIES
OF THE GERMAN "UNIVERSAL" BANKS IN THE U.S. IN ADDITION
IT GAVE CERTAIN CIRCLES IN THE CONGRESS THE OCCASION
FOR INTRODUCING THEIR OWN MUCH MORE RESTRICTIVE DRAFT.
THIS INTERNATIONAL BANKING BILL 1976,COUPLED THE
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OBJECTIVES OF THE FEDERAL RESERVE BOARD WITH MORE OR
LESS PROTECTIONIST INTENTIONS. IT NOW HAS REPLACED THE
FEDERAL RESERVE BILL AND HAS A GOOD CHANCE TO BE EN-
ACTED BY THE HOUSE AND ALSO BY THE SENATE.

6. BANKING BILL OF 1976 TAKES FROM FOREIGN BANKS THE
BASIS ON WHICH THEY AHVE CONDUCTED THEIR BUSINESS: THE
ENACTMENT OF THE 1976 BANKING BILL IN ITS CURRENT FORM
WOULD HAVE THE FOLLOWING CONSEQUENCES:
(A) BY THE END OF 1985 GERMAN BANKS WOULD HAVE TO DIS-
CONTINUE ALL SECURITY TRANSACTIONS EXCEPTING UNDER-
WRITING ACTIVITIES. THE TEMPORARY LIMITED GRAND-
FATHER CLAUSE, IN PRACTICE WOULD HOWEVER LEAD TO A
COMPLETE DRYING UP OF THIS BUSINESS LONG BEFORE
THIS TIME.

(B) GERMAN BANKS WOULD BECOME SUBJECT TO THE SO-
CALLED "ONE BANK HOLDING COMPANY ACT." THIS WOULD TO
A LARGE EXTENT MAKE IT IMPOSSIBLE FOR A BANK LOCATED
IN THE FRG TO ESTABLISH A U.S. SUBSIDIARY AND HOLD
PARTICIPATIONS IN U.S. FIRMS AT THE SAME TIME.
THE PARENT BANK IN GERMANY WOULD BE TREATED AS A
U.S. HOLDING COMPANY. THIS WOULD IN ESSENCE MEAN AN
EXTENSION OF U.S. LEGILATION TO THE FEDERAL REPUBLIC.

(C) WHILE CURRENTLY FOREIGN BANKS HAVE THE RIGHT TO
MAINTAIN BRANCHES OR SUBSIDIARIES IN SEVERAL STATES
OF THE U.S., THE ESTABLISHMENT OF NEW BRANCHES WOULD
BE POSSIBLE ONLY SUBJECT TO CONSIDERABLE RESTRICTIONS.

(D) ALTHOUGH FOREIGN BANKS IN THE U.S. DO BUSINESS
WITH PRIVATE INDIVIDUALS ONLY IN EXCEPTIONAL CASES,
THEY WILL BE FORCED BY THE NEW LEGISLATION TO BECOME
MEMBERS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION

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AND DEPOSIT A SURETY. EVEN IF THE DIFFERENT BUSINESS STRUCTURE OF FOREIGN BANKS AS COMPARED WITH U.S. BANKS IS DISREGARDED, THIS SPECIAL REGULATION (SURETY) CONTAINS A DISCRIMINATING ELEMENT.

7. "EQUALIZATION" USED AS PRETENSE FOR DISCRIMINATION: THE DRAFTERS OF THE BANKING BILL STATE THAT THE BILL
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WILL ASSURE THAT FOREIGN AND DOMESTIC BANKS IN THE U.S. RECEIVE EQUAL TREATMENT. HOWEVER, ONE MUST ASK WHETHER THE LAW DOES NOT IN FACT DISCRIMINATE AGAINST FOREIGN BANKS. WHILE U.S. BANKS MAY ESTABLISH BRANCHES ANYWHERE IN GERMANY WITHOUT RESTRICTION, GERMAN BANKS (UNDER THE NEW BILL) WILL BE PERMITTED TO ESTABLISH BRANCHES IN THE U.S., IF AT ALL, ONLY IN A SINGLE STATE. THE BILL COMBINES IN AN UNFORTUNATE WAY EFFORTS FOR WHICH GERMAN BANKS HAVE UNDERSTANDING WITH MEASURES OF A STRONGLY PROTECTIONIST CHARACTER. THE LARGE

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TO SECSTATE WASHDC 0419
INFO AMEMBASSY BERN
AMEMBASSY BRUSSELS
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AMEMBASSY TOKYO
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U.S. BANKS WHICH VALUE THEIR RELATIONS IN FOREIGN FINAN-
CIAL CENTERS DID NOT SUPPORT THIS BILL. IT APPEARS IT
IS THE SMALLER BANKS, WHO WISH TO AVOID FOREIGN COMPE-
TITION, AND THE MAJORITY OF U.S. BROKERS WHO SUPPORT
THE BILL. THE U.S. LEGISLATIVE INITIATIVES HAVE CREATED
CONSIDERABLE UNREST AMONG GERMAN AND OTHER EUROPEAN BANKS.
THE QUESTION MAY ARISE FOR A FEW OF THESE BANKS WHETHER
IT IS POSSIBLE TO CONTINUE CONDUCTING BUSINESS IN
THE U.S. UNDER THE NEW CONDITIONS. IF NOT, SIZABLE
START-UP INVESTMENTS MADE DURING THE LAST YEARS WOULD
PROBABLY BE LOST. IN ANY CASE, RATIFICATION OF THE BILL
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WOULD VIOLATE THE PRINCIPLE OF RECIPROCITY TO AN EXTENT
WHICH MIGHT RESULT IN CALLS FOR RETALIATORY MEASURES
FROM THE EUROPEAN BANKING SECTOR. THIS LIKELIHOOD
IS INCREASED SINCE THE BILL APPARENTLY FOCUSES NOT ONLY
ON EQUAL TREATMENT OF DOMESTIC AND FOREIGN BANKS, BUT
ALSO CONTAINS CLEARLY DISCRIMINATORY ELEMENTS. MORE-
OVER, IN INSTANCES OF CHANGES IN U.S. BANKING LEGISLA-
TION DURING THE LAST DECADES,HIT WAS QUITE UNUSUAL
TO PLACE TIME LIMITS ON GRANDFATHER CLAUSES.

8. DISINTEGRATION OF INTERNATIONAL FINANCIAL MARKETS
SHOULD BE AVOIDED: THE RATIFICATION OF THE BILL
WOULD ALSO HAVE AN IMPORTANT ECONOMIC POLICY ASPECT
BECAUSE OF ITS DISINTEGRATING EFFECTS. THE BILL NOT
ONLY AFFECTS BUSINESS POLICIES OF BANKS BUT ALSO
FINANCIAL INTERRELATIONSHIPS BETWEEN CREDIT AND
CAPITAL MARKETS WHICH CANNOT BE MAINTAINED AS A ONE-
WAY STREET FROM THE U.S. TO EUROPE. SUCH RELATION-
SHIPS MUST FUNCTION IN BOTH WAYS IF THE REQUIRED
CLOSE MONETARY COOPERATION BETWEEN HIGHLY DEVELOPED
ECONOMIES IS TO BE ACHIEVED. THIS IS NOT ONLY IN
THE INTEREST OF THE FEDERAL REPUBLIC BUT ULTIMATELY

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ALSO IN THE MULTILATERAL INTEREST OF THE WESTERN
WORLD AND,LAST BUT NOT LEAST,  ALSO IN THE INTERESTS
OF THE U.S.
CASH

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# Message Attributes

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